

Exhibit 7

Reply Brief in Support of Hamad Al-Husaini's
Motion to Dismiss the Third Amended Complaint

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Afghanistan: Post-War Governance, Security, and U.S. Policy

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Summary

Afghanistan is a fragile state that appears to be gradually stabilizing after more than 22 years of warfare, including a U.S.-led war that brought the current government to power. Before the U.S. military campaign against the Taliban began on October 7, 2001, Afghanistan had been mired in conflict since the Soviet invasion of Afghanistan in 1979. The Taliban ruled most of Afghanistan from 1996 until its collapse in December 2001 at the hands of a U.S.-led military campaign.

Since the defeat of the Taliban, Afghanistan no longer serves as a base of operations for Al Qaeda. Afghan citizens are enjoying new personal freedoms that were forbidden under the Taliban, about 2.5 million Afghan refugees have returned, and women have returned to schools, the workforce, and some participation in politics. Although with some difficulty, political reconstruction is following the route laid out by major Afghan factions and the international community during the U.S.-led war. A *loya jirga* (traditional Afghan assembly) adopted a new constitution on January 4, 2004, with some minor changes. Presidential and parliamentary elections were to be held by June 2004, although Afghan leaders now say the elections will be postponed until September 2004. At the same time, an ongoing insurgency by Taliban remnants, particularly in the Taliban's former power base in the southeast, has created a perception of insecurity and slowed reconstruction. Other major problems include continued exercise of authority by regional leaders and growing trafficking in narcotics.

On May 1, 2003, the United States and the Afghan government declared major U.S.-led combat ended and asserted that U.S.-led forces would henceforth concentrate on stabilization. U.S. stabilization measures focus on strengthening the central government, which has been widely viewed as weak and unable to control many regional and factional leaders. The United States and other countries are building an Afghan National Army; deploying a multinational International Security Assistance Force (ISAF) to patrol Kabul and other cities; setting up regional enclaves to create secure conditions for reconstruction (Provincial Reconstruction Teams, PRTs), and disarming militia fighters. To foster reconstruction, the United States is giving Afghanistan a total of about \$1.6 billion for FY2004, most of which (\$1.2 billion) was provided in a supplemental appropriation (P.L. 108-106). The United Nations and the Bush Administration have lifted sanctions imposed on Afghanistan during Taliban rule.

This paper will be updated as warranted by major developments.

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Afghanistan: Post-War Governance, Security, and U.S. Policy

Background to Recent Developments

Afghanistan became unstable in the 1970s as both its Communist Party and its Islamic movement grew in strength and became increasingly bitter opponents of each other.¹ The instability shattered the relative peace and progress that characterized the rule of King Mohammad Zahir Shah, who reigned during 1933 - 1973. Zahir Shah was the last King in Afghanistan's monarchy, which was founded in 1747 by Ahmad Shah Durrani. Prior to the founding of the monarchy, Afghanistan did not exist as a distinct political entity, but was a territory inhabited by tribes and tribal confederations often linked to neighboring nations. Zahir Shah was the only surviving son of King Mohammad Nadir Shah (1929-1933), whose rule followed that of King Amanullah Khan (1919-1929), after a brief rule in 1919 by a Tajik strongman named Bacha-i-Saqo. King Amanullah Khan launched attacks on British forces in Afghanistan shortly after taking power and won complete independence from Britain as recognized in the Treaty of Rawalpindi (August 8, 1919). He was considered a secular modernizer and who presided over a government in which all ethnic minorities participated.

Zahir Shah is remembered fondly by many older Afghans for promulgating a constitution in 1964 that established a national legislature and promoting freedoms for women, including freeing them from covering their face and hair. However, possibly believing that doing so would enable him to limit Soviet support for communist factions in Afghanistan, Zahir Shah also entered into a significant political and arms purchase relationship with the Soviet Union.

While undergoing medical treatment in Italy, Zahir Shah was overthrown by his cousin, Mohammad Daoud, a military leader. Daoud established a dictatorship characterized by strong state control over the economy. After taking power in 1978 by overthrowing Daoud, the communists, first under Nur Mohammad Taraki and then under Hafizullah Amin (leader of a rival communist faction who overthrew Taraki in 1979), attempted to impose radical socialist change on a traditional society. The communists tried to redistribute land and bring more women into government positions. These moves spurred recruitment for Islamic parties and their militias opposed to communist ideology. The Soviet Union sent troops into Afghanistan on December 27, 1979 to prevent a seizure of power by the Islamic militias that

¹ For more information, see CRS Report RL31759, *Reconstruction Assistance in Afghanistan: Goals, Priorities, and Issues for Congress*.

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became popularly known as “mujahedin”² (Islamic fighters). Upon their invasion, the Soviets ousted Hafizullah Amin and installed a local ally, Babrak Karmal, as Afghan president.

After the Soviets occupied Afghanistan, the U.S.-backed *mujahedin* fought them effectively, and Soviet occupation forces were never able to pacify all areas of the country. The Soviets held major cities, but the outlying mountainous regions remained largely under *mujahedin* control. The *mujahedin* benefitted from U.S. weapons and assistance, provided through the Central Intelligence Agency (CIA), working closely with Pakistan’s Inter-Service Intelligence directorate (ISI). That weaponry included man-portable shoulder-fired anti-aircraft systems called “Stingers,” which proved highly effective against Soviet aircraft. The Islamic guerrillas also hid and stored weaponry in a large network of natural and manmade tunnels and caves throughout Afghanistan. The Soviet Union’s losses mounted, and Soviet domestic opinion shifted against the war. In 1986, after the reformist Mikhail Gorbachev became leader of the Soviet Union — and perhaps in an effort to signal some flexibility on a possible political settlement — the Soviets replaced Babrak Karmal with the more pliable director of Afghan intelligence (Khad), Najibullah Ahmedzai (who went by the name Najibullah or, on some occasions, the abbreviated Najib).

On April 14, 1988, Gorbachev agreed to a U.N.-brokered accord (the Geneva Accords) requiring it to withdraw. The Soviet Union completed the withdrawal on February 15, 1989, leaving in place a weak communist government facing a determined U.S.-backed *mujahedin*. The United States closed its embassy in Kabul in January 1989, as the Soviet Union was completing its pullout. A warming of superpower relations moved the United States and Soviet Union to try for a political settlement to the Afghan internal conflict. The failed August 1991 coup in the Soviet Union, and its aftermath, reduced Moscow’s capability for supporting communist regimes in the Third World, leading Moscow to agree with Washington on September 13, 1991, to a joint cutoff of military aid to the Afghan combatants.

The State Department has said that a total of about \$3 billion in economic and covert military assistance was provided by the U.S. to the Afghan *mujahedin* from 1980 until the end of the Soviet occupation of Afghanistan in 1989. Press reports and independent experts believe the covert aid program grew from about \$20 million per year in FY1980 to about \$300 million per year during fiscal years 1986 - 1990. Even before the 1991 U.S.-Soviet agreement on Afghanistan, the Soviet withdrawal had decreased the strategic and political value of Afghanistan and made the Administration and Congress less forthcoming with funding. For FY1991, Congress reportedly cut covert aid appropriations to the *mujahedin* from \$300 million the previous year to \$250 million, with half the aid withheld until the second half of the fiscal year. Although the intelligence authorization bill was not signed until late 1991, Congress abided by the aid figures contained in the bill.³

² The term refers to an Islamic guerrilla; literally “one who fights in the cause of Islam.”

³ See “Country Fact Sheet: Afghanistan,” in *U.S. Department of State Dispatch*. Volume 5, No. 23, June 6, 1994. Page 377.

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Afghanistan at a Glance

Population:	27.7 million (July 2002 est.)
Ethnic Groups:	Pashtun 44%; Tajik 25%; Uzbek 8%; Hazara 10%; others 13%
Religions:	Sunni Muslim 84%; Shiite Muslim 15%; other 1%
GDP Per Capita:	\$800/yr
External Debt:	\$5.5 billion (1996 est.)
Major Exports:	fruits, nuts, carpets, semi-precious gems
Major Imports:	food, petroleum, capital goods

Source: CIA World Factbook, 2002.

With Soviet backing withdrawn, on March 18, 1992, Afghan President Najibullah publicly agreed to step down once an interim government was formed. His announcement set off a wave of regime defections, primarily by Uzbek and Tajik militia commanders who were nominally his allies, including Uzbek commander Abdul Rashid Dostam (see below).

Joining with the defectors, prominent *mujahedin* commander Ahmad Shah Masud (of the Islamic Society, a largely Tajik party headed by Burhannudin Rabbani) sent his fighters into Kabul, paving the way for the installation of a regime led by the *mujahedin* on April 18, 1992. Masud had earned a reputation as a brilliant strategist by successfully preventing the Soviets from occupying his power base in the Panjshir Valley of northeastern Afghanistan. After failing to flee, Najibullah, his brother, and a few aides remained at a U.N. facility in Kabul until the Taliban movement later seized control and hanged them.

The fall of Najibullah brought the *mujahedin* parties to power in Afghanistan but also exposed the serious differences among them. Islamic scholar Sibghatullah Mojadeddi became president for an initial two months (April - May 1992). Under an agreement among all the major *mujahedin* parties, Burhannudin Rabbani became President in June 1992, with the understanding that he would leave office in December 1994. He refused to step down at the end of that time period, maintaining that political authority would disintegrate in the absence of a clear successor, but the other parties accused him of monopolizing power. His government subsequently faced daily shelling from another *mujahedin* commander, Gulbuddin Hikmatyar, who was nominally prime minister but never formally took office. Hikmatyar headed a strongly fundamentalist faction of Hizb-e-Islami (Islamic Party) and reportedly received a large proportion of the U.S. covert aid during the war against the Soviet Union. Four years (1992-1996) of civil war among the *mujahedin* destroyed much of Kabul and created popular support for the Taliban. (Hikmatyar was later ousted by the Taliban from his powerbase around Jalalabad despite sharing the Taliban's ideology and Pashtun ethnicity, and he fled to Iran before returning to Afghanistan in early 2002. He is now allied with Taliban and Al Qaeda remnants.)